

THURSTON COUNTY SHERIFFS OFFICE

FIELD REPORT 17-002686

CLOSED

Report Type INFORMATION REPORT	Report Date/Time 05/31/2017	Reporting Officer KING, M 1137	
Incident Type AGENCY ASSIST	Incident Date/Time 05/31/2017 08:00:00	Originator (if different) <i>1524</i>	
Occurred From Date/Time 05/25/2017 01:40:00	Occurred To Date/Time 05/31/2017	Arresting Officer <i>Copy To: SHELTON P.D. MASON COUNTY P.A.</i>	
Location	Address 218 N 3RD ST SHELTON, WA 98584	Beat	Location Grid: X Y
Short Synopsis AGENCY ASSIST			

Involved Party

Party # 1	Party Type INVOLVED PARTY	Party Name HEFLIN, NICOLAS EDWARD		<input type="checkbox"/> Business	DOB 09/28/1992	Age 24
Gender	Race	Hair	Eyes	Height	Weight	DL #
Home Address TRANSIENT		City	State	Zip	Phone	
Business Address		City	State	Zip	Bus. Phone	
INJURY TYPE APPARENT BROKEN BONES + POSSIBLE INTERNAL INJURY						
INJURY [MEDICAL RECORDS RELEASE] YES						
VICTIM INFO [VICTIM TYPE] INDIVIDUAL						

Party # 10	Party Type WITNESS	Party Name SCHOENBERG, SGT		<input type="checkbox"/> Business	DOB	Age
Gender	Race	Hair	Eyes	Height	Weight	DL #
Home Address 411 N 4TH ST		City SHELTON	State WA	Zip 98584	Phone	
Business Address		City	State	Zip	Bus. Phone	
VICTIM INFO [VICTIM TYPE] INDIVIDUAL						

Party # 11	Party Type WITNESS	Party Name REEVES, SGT		<input type="checkbox"/> Business	DOB	Age
Gender	Race	Hair	Eyes	Height	Weight	DL #
Home Address 411 N 4TH ST		City SHELTON	State WA	Zip 98584	Phone	
Business Address		City	State	Zip	Bus. Phone	
VICTIM INFO [VICTIM TYPE] INDIVIDUAL						

Party # 12	Party Type WITNESS	Party Name WEZA, BARBARA <input type="checkbox"/> Business				DOB	Age
Gender	Race	Hair	Eyes	Height	Weight	DL #	State
Home Address 218 N 3RD ST		City SHELTON	State WA	Zip 98584	Phone		
Business Address		City	State	Zip	Bus. Phone		
NOTES MANAGER OF COMMUNITY LIFELINE VICTIM INFO [VICTIM TYPE] INDIVIDUAL							

Party # 13	Party Type WITNESS	Party Name PEDERSEN, BERT <input type="checkbox"/> Business				DOB	Age
Gender	Race	Hair	Eyes	Height	Weight	DL #	State
Home Address 218 N 3RD ST		City SHELTON	State WA	Zip 98584	Phone		
Business Address		City	State	Zip	Bus. Phone		
VICTIM INFO [VICTIM TYPE] INDIVIDUAL NOTES DIRECTOR OF COMMUNITY LIFELINE							

Party # 14	Party Type WITNESS	Party Name SIMPSON, GEORGE M <input type="checkbox"/> Business				DOB 12/10/1950	Age 66
Gender	Race	Hair	Eyes	Height	Weight	DL #	State
Home Address TRANSIENT		City	State	Zip	Phone		
Business Address		City	State	Zip	Bus. Phone		
VICTIM INFO [VICTIM TYPE] INDIVIDUAL							

Party # 2	Party Type INVOLVED PARTY	Party Name DOHERTY, JUSTIN <input type="checkbox"/> Business				DOB	Age
Gender	Race	Hair	Eyes	Height	Weight	DL #	State
Home Address 525 W COTA ST		City SHELTON	State WA	Zip 98584	Phone		
Business Address		City	State	Zip	Bus. Phone		
VICTIM INFO [VICTIM TYPE] INDIVIDUAL INJURY TYPE NONE							

Party # 3	Party Type INVOLVED PARTY	Party Name DICKISON, MATT		<input type="checkbox"/> Business	DOB	Age
Gender	Race	Hair	Eyes	Height	Weight	DL #
Home Address 525 W COTA ST		City SHELTON	State WA	Zip 98584	Phone	
Business Address		City	State	Zip	Bus.Phone	

VICTIM INFO

[VICTIM TYPE] INDIVIDUAL

Party # 4	Party Type WITNESS	Party Name COTTE, DEPUTY		<input type="checkbox"/> Business	DOB	Age
Gender	Race	Hair	Eyes	Height	Weight	DL #
Home Address 322 N 3RD ST		City SHELTON	State WA	Zip 98584	Phone	
Business Address		City	State	Zip	Bus.Phone	

VICTIM INFO

[VICTIM TYPE] INDIVIDUAL

Party # 5	Party Type WITNESS	Party Name LEITGEB, DEPUTY		<input type="checkbox"/> Business	DOB	Age
Gender	Race	Hair	Eyes	Height	Weight	DL #
Home Address 322 N 3RD ST		City SHELTON	State WA	Zip 98584	Phone	
Business Address		City	State	Zip	Bus.Phone	

VICTIM INFO

[VICTIM TYPE] INDIVIDUAL

Party # 6	Party Type WITNESS	Party Name COZAD, DEPUTY		<input type="checkbox"/> Business	DOB	Age
Gender	Race	Hair	Eyes	Height	Weight	DL #
Home Address 322 N 3RD ST		City SHELTON	State WA	Zip 98584	Phone	
Business Address		City	State	Zip	Bus.Phone	

VICTIM INFO

[VICTIM TYPE] INDIVIDUAL

Party # 7	Party Type WITNESS	Party Name SCHUSHACK, DEPUTY		<input type="checkbox"/> Business	DOB	Age
Gender	Race	Hair	Eyes	Height	Weight	DL #
Home Address 411 N 4TH ST		City SHELTON	State WA	Zip 98584	Phone	
Business Address		City	State	Zip	Bus.Phone	

VICTIM INFO

[VICTIM TYPE] INDIVIDUAL

Party # 8	Party Type WITNESS	Party Name POTTS, DEPUTY				<input type="checkbox"/> Business	DOB	Age
Gender	Race	Hair	Eyes	Height	Weight	DL #	State	
Home Address 411 N 4TH ST		City SHELTON	State WA	Zip 98584	Phone			
Business Address		City	State	Zip	Bus. Phone			
VICTIM INFO [VICTIM TYPE] INDIVIDUAL								

Party # 9	Party Type WITNESS	Party Name LOPEZ, DEPUTY				<input type="checkbox"/> Business	DOB	Age
Gender	Race	Hair	Eyes	Height	Weight	DL #	State	
Home Address 411 4TH ST		City SHELTON	State WA	Zip 98584	Phone			
Business Address		City	State	Zip	Bus. Phone			
VICTIM INFO [VICTIM TYPE] INDIVIDUAL								

Narrative Data

No.	Description	Author
	17-2686	KING, MITCHELL IAN



**THURSTON COUNTY SHERIFF'S OFFICE
INVESTIGATOR'S REPORT**

Year-Case Number:17-2686
Detective: King
ID Number: 1137
Today's Date: 05-27-17
Date Incident Occurred: 05-25-17
List other documents attached reference case:

Synopsis: Agency Assist

Narrative: On 05-26-17, I was contacted by Lt. Clark and advised I would need to contact Lt. Mike Fiola with the Shelton Police Department in regards to a use of force issue involving two of their officers, Officer Matt Dickinson and Officer Justin Doherty. I called Lt. Fiola and advised him Sgt. Simper and I would be en-route to his office shortly.

Sgt. Simper and I contacted Lt. Fiola at his office where he provided me with copies of the original report (SPD Case# 17-S03904), corrected report (SPD Case# 17-S03904), 4 CD's of body camera footage, Detective Patton's supplement report/photos, Lt. Fiola's supplement report, email from Chief Moody in regards to Jeanette Boothe taking two photos in the jail of Nicholas Heflin, and copies of the internal investigation. Lt. Fiola also explained the circumstances from the night of the 25th as he knew it. He advised how they included all of the information in the above paperwork.

After clearing the Shelton Police Department Sgt. Simper and I headed to the location where the incident occurred (St David's Parish Episcopal Church 218 N 3rd St Shelton WA). I took numerous photos of the stairwell where the incident occurred. The landing area at the top of the stairs was approximately 4' by 6' and approximately 15' off the ground.

While standing at the rear of the Parish there were multiple people sitting in the park. Sgt. Simper and I spoke with a handful of these individuals and asked if anyone had seen what happened on the night of 05-25-17. A few of the people advised George Simpson may have seen what happened. No one at that time knew where we could find George at, but did advise he was in his 60's, homeless, with crippled foot. Sgt. Simper and I checked the city of Shelton for someone matching George's description, unfortunately we had negative results.

Officer Dickinson's body camera:

I returned to my office and reviewed the body camera footage. The first camera I watched was Officer Dickinson. As it begins you see Officer Doherty walk toward Dickinson. Dickinson states that he's pretty sure he can see a foot. Doherty then briefly shines his light at the top of the stairs. While Doherty is advising dispatch of their location Dickinson is putting his gloves on. The subject (Nicholas Heflin) at the top of the landing has made no movement at this point.

Doherty starts up the stairs in front of Dickinson. After a few steps Doherty stops and shines his flash light at Nick. Both officer's yell "Shelton Police Department come down off the stairs!" There is no reply and no movement from Nick after three announcements. As Doherty starts walking up the stairs you can see he has gloves on and a can of pepper spray in his right hand. It also appears he is shaking the can in preparation to utilize it.

As they reach the top of the stairs, Doherty shines his light in Nick's face, kicks his shoe twice and states, "Wake up man it's the police department show me your hands." There appears to be no response from Nick so Doherty yells, "Show me your hands." It sounds like Nick mumbles

something to the officers that's so quiet you can't understand what's being said. Doherty warns Nick he's going to tell him one more time or he's going to pepper spray him. Nick is laying on his right side almost in a relaxed fetal position. His right arm appears to be under his body while his left arm is laying across the area of his chest. As Nick moves his left hand over his face possibly to cover his eyes from Doherty's flashlight Doherty sprays Nick with his pepper spray. It should be noted that from the view of Dickinson's camera you can see at this point that Doherty is wearing carbon fiber knuckled gloves commonly worn by riot teams.

Both Doherty and Dickison are yelling at Nick to put his hands behind his back. You can hear Nick mumble something similar to "did you spray something on me?" Doherty orders Nick to lay on his stomach and to put his hands behind his back. Nick complies until he begins coughing possibly due to the pepper spray. He pops up to his hands and knees and again begins to bring his hands behind his back while he's coughing. As soon as Nick went to his hands and knees Doherty jumps onto Nick forcing him into the corner of the landing.

You can hear Nick yelling, "dude dude dude my neck dude my neck." Approximately 20 seconds later Doherty begins striking Nick. I'm unable to see where the strikes are landing due to the angle of Dickinson camera which is located on his chest. 2min and 30 seconds into the video it appears that Dickinson stands up from the fight and then his camera falls off. Before the camera falls off I'm able to see Doherty's outline presumably on top of Nick while they continue to struggle. Dickinson's camera then goes dark but you are still able to hear Nick screaming for help and the sound of someone being struck.

At 3 minutes and 15 seconds into the video you hear a Taser being deployed and completing a 5 second cycle. The striking continues and you

hear Nick continuing to scream for help. At approximately 4 minutes and 20 seconds into the video you hear Dickinson utilize his radio and ask dispatch for backup. 4 minutes and 33 seconds into the video Dickinson states, "Dude you better let go of my fucking hands dude" (which he notes in his report). At 5 minutes and 22 seconds into the video it sounds like multiple Mason County deputies are now on scene. Strikes are still being heard and Nick is still screaming.

At approximately 8 minutes into the video it sounds like Doherty and Dickinson along with the assistance of the Mason County Sheriff's Office have detained Nick in handcuffs. Nick's screaming has now changed to a labored moaning. The remainder of the video is Dickinson standing by speaking with other officers and fire personnel.

Officer Doherty's body camera:

As Doherty's camera is activated you see him approaching Officer Dickinson who is standing at the rear of the Parish. Dickinson advises Doherty that he believes he sees a foot. Doherty advises dispatch of their location and what they are out with. He then walks up the first few steps and begins to advise an unknown subject (Nick Heflin) they are with the Shelton Police Department and to come down the stairs.

Due to the camera being mounted on the front of Doherty's vest you're unable to see what he's looking at. You can hear both Doherty and Dickinson advises Nick to come down the stairs. Eventually both officers walk up the stairs to contact Nick. Once at the top of the stairs Doherty tells Nick to show him his hands or he's going to pepper spray him. You can hear Nick mumble something but I'm unable to make out what it is. As Doherty turns his body to spray Nick you can see his left hand slowly go from his mid torso area to his face. Nick appears to be lying in a relaxed

fetal position with his right arm under his body and out of view. As the pepper spray is applied it appears the canister was deployed a few feet from Nicks face. When the camera pulls back you can see the orange spray on the left side of Nick's face, and all over his left hand. Nick states something which sounds like, "Did you spray something on me god damn it."

Doherty instructs Nick to lay on his stomach and places his hands behind his back. Nick begins to comply and places his hands behind his back. It appears his face is now in the pillow covered with the pepper spray causing him to cough. Nick pops up onto his hands and knees and immediately begins to put his hands back behind his back. Doherty then jumps onto Nick's back forcing his head into the corner of the landing next to the door.

While this is going on Nick is saying, "dude dude dude my neck dude my neck, let me go let me go seriously seriously." At the 1 minute and 50 second mark in the video it appears that Doherty begins to hit Nick with his fists. He's doing this while wearing what appears to be carbon fiber knuckled gloves. The gloves come into view of his camera as he's holding Nick down. As Doherty continues to strike Nick his voice begins to sound more aggravated while Nick is screaming and yelling "Ouch please let me go ow ow ow ow dude please stop." You can now hear stronger strikes and Doherty's voice saying, "Put your hands behind your fucking back."

At approximately the 2 minute and 50 second mark, Doherty appears to lose his body camera and things go black but the audio continues. At the 3 minute mark you hear Dickinson suggest tasing him. The Taser is then deployed with negative results. You can hear the strikes continue and Nick screaming and asking for help. At 4 minutes and 20 seconds you hear

someone request another unit through dispatch. At 4 minutes and 28 seconds you hear Nick still scream and now asking, "Why?"

At 5 minutes and 20 seconds it sounds like other units are now on the steps to assist. After Nick is secured in handcuffs you can hear him "moaning" and saying "ow" through the rest of the video while fire personnel are attempting to help him.

At 16 minutes and 30 seconds Doherty advises a Washington State Trooper of his version of the event. He explains to the trooper how the Parish has requested people who were trespassing after hours to be removed. He goes on to say how they couldn't see Nick's hands and they had warned him to show his hands which he wouldn't, so Doherty sprayed him. Doherty said the fight was then on for the next 2 to 3 minutes until cover arrived.

George Simpson statement:

- On 05-31-17, Detective Clark and I discovered George Simpson had been arrested and was currently in custody at the Mason County Jail. Detective Clark and I contacted the Mason County Jail staff and requested to interview George Simpson which they advised would be fine. We sat down with George in an empty office. I advised George why I wanted to speak with him, and asked if he was willing to let me record our conversation. George advised he was fine with this and he knew of the situation I was speaking of.

George explained he was riding his bike by the Parish that night when he noticed the police standing around with a male on the ground who appeared to be in handcuffs. I asked George if he noticed them fighting or

yelling at this point. George said they were just standing there and the subject in handcuffs was sitting on the ground moaning and groaning. He decided to ride off when one of the officers turned around with his hands on his hips and gave him a look like he needed to leave.

I asked George if he knew who any of the officers were with the male in handcuffs. He advised he didn't know their names but recognized one of them who was short and stocky with a mustache. He went on to explain how this officer and another one had a reputation for being ruff necks. He said they would egg people on and acted more like bullies.

We asked George if he had ever heard of any rules about sleeping outside of the Parish. George advised this was an unwritten rule which most homeless people in Shelton knew about. I asked George if he knew how long Nick had been homeless in Shelton, George was unsure.

Bert Pedersen statement:

On 06-01-17 Detective Clark and I met with Bert Pedersen at the old St. David's Parish. Bert explained to us how he is the Chairman for Community Lifeline which is a non-profit organization. Bert said he has been in this position for approximately two years now. I asked Bert if there are any rules in regards to trespassing outside, Bert advised there are not. Bert went on to explain if people were acting up, drinking, or doing drugs outside they would call the police and have them removed. I asked Bert if there is any signage outside in regards to trespassing which Bert advised there was not.

I asked Bert if Community Lifeline had any written policy or rules for dealing with people sleeping outside on the property. Bert advised they had no such rule and he has seen people sleeping outside in the garden

before. I asked Bert if Community Lifeline has spoken with the Shelton Police department about how to deal with people sleeping outside the building. Bert informed me they have not, but they have had a good working relationship with Chief Moody.

I asked Bert if they have ever had any issues with Nick Heflin. Bert said Community Lifeline had no record of Nick creating any issues or being trespassed from the property. The only record they had was Nick using the facility for its intended purpose.

Earlier Bert had shown us the facility and during the statement I asked Bert about one of the rooms we had seen. While on our tour of the facility I noticed a locked room which contained the same style of mattress Nick had been sleeping on. I asked Bert if anyone was able to retrieve one of these mattress. Bert advised this was the great hall and only a few people had keys to this room. I asked Bert if it was possible that someone may have provided Nick with a mattress from this room. Bert advised anything was possible. I also noticed the landing area which Nick had been sleeping on was right outside this room. Bert advised this door also requires a key and it can only be opened from inside of the great hall.

Detective Clark asked Bert if one of the Employees (Mark) may have contacted Shelton PD and requested they remove people from the property after hours. Bert advised "Mark worked nights and he is black and white, and Mark sometimes over steps his boundaries." We asked if we could speak with Mark and Bert advised he would need to contact their attorney first. This ended our interview with Bert Pedersen.

Cameras located at 223 N. 2nd Ave

After speaking with Bert Pedersen Detective Clark and I spoke with the home owner Judy Witaker at 223 N. 2nd Ave next to the Parish. Witaker had home security cameras located around the perimeter of her residence. Witaker agreed to let us check her security system in hopes it may have caught the incident from the 25th. Unfortunately after viewing her camera placement nothing would have been in view of the cameras and held no evidentiary value.

Nicholas Heflin statement:

On 06-06-17, Nick Heflin and his attorney Jeanette Boothe met with Sgt. Simper and me at the Thurston County Sheriff's Office. Nick appeared to be extremely uncomfortable meeting with us. His attorney advised us that Nick was uncomfortable around law enforcement since the incident that occurred on 25th. I noticed that Nick still had injuries to his face which included bruising and blood engorged in his eyes. Before starting the interview I asked Nick if he had any issues with me recording our conversation, Nick and his attorney advised this would be fine.

Nick stated that he has been homeless in Shelton for about two and a half months. He informed me that he has been sleeping on the streets during this timeframe. I asked Nick what he recalled from the night of the 24th going into the 25th. Nick said he didn't remember much but recalled waking up to being hit and he was screaming for help. I asked Nick if he had any issues with the Shelton Police Department in the past. Nick said he really hadn't beside a DV malicious mischief issue with his mother two and half months ago which resulted in an order that has now caused him to live on the streets.

I asked Nick how long he had been sleeping on the landing behind the Parish. Nick explained how that night was the first time. After checking it out he said there was a mattress, sheets and blankets already on the landing. Nick felt like it would be a good spot to be left alone and not be seen. Nick also believed the Parish had left these items there for someone who might need them.

I asked Nick if anyone at the Parish had told him he wasn't allowed to sleep on the landing, which he replied "No." I asked Nick if he had been drinking or using narcotics prior to sleeping and he advised me he had not. I asked Nick if he heard the officers speaking with him at the top of the stairs, he advised he did not. The first thing he remembers is a lot of pain and a blunt force hitting him, and not being able to control anything. Nick said he didn't try anything because he couldn't move. I asked Nick if he fought back at any point which he says he didn't. Toward the end of this incident Nick recalls being picked up and hearing voices telling him where to go. I asked Nick if he ever spoke with the officers during the incident and all he remembers doing was screaming for help.

After I had completed my questions Sgt. Simper asked what the first thing was that popped into Nick's head. Nick said it was him screaming for help because he thought they were going to kill him. Nick said they were choking him to shut him up, and that he had no idea it was the police. After the unknown subjects placed him in handcuffs Nick realized it was the police.

I asked Nick if he recalled being pepper sprayed. Nick said he remembers his eyes burning but he didn't recall being pepper sprayed. He does recall being tased and hit in the head by what he believes was a baton. Nick also believes he took a boot to the face at some point.

I asked Nick if he remembered who took him to the hospital, the medics or the police department. Nick said he couldn't recall, the most he could remember was them trying to do x-rays. He remembers complaining to the staff how the cuffs hurt and asking for help to take the pain away because he was laying on them.

I asked Nick what the hospital staff said was physically wrong with him after the incident. Nick stated he now had broken bones in his face, broken nose, smashed sinuses, he sees white flashes in his peripheral vision, his eye now burn and are sensitive to light, his eye are constantly too dry or too moist. Nick said within five hours of being released from the jail he had a seizure and blacked out. Everything went fuzzy in his eyes and then it felt like a black film went over his eyes.

Sgt Simper asked Nick if there were any details he may have forgot to add. Nick appeared hesitant but eventually advised us that during the incident he had "shit" himself. Then after arriving at the jail they performed a cavity search which made the pain worse. Nick stated that while he was in the jail shower, he pulled a blood clot out of his throat which was approximately a foot long. Nick feels he may have an injury to his brain because of the fact everything is fuzzy, his speech has been difficult, he's having a hard time saying words and he now stutters. Nick also advised he was going to try and go to Harbor View to have the injuries checked out further. Before completing my interview with Nick I requested he fill out a medical release form which he did.

Deputy Matt Leitgeb:

On 06-07-17, Detective Clark and I contacted Deputy Matt Leitgeb at his residence to retrieve a statement regarding the above incident. I had

spoken with Matt prior to arriving at his residence and explained I would like to take a statement from him about the incident from the 25th, which he agreed.

I asked Matt to explain his involvement for that night. Matt said that he and three other deputies were at the Sheriff's office across the street when dispatch advised Officer Doherty and Officer Dickinson were requesting assistance at the homeless shelter across the street.

As Matt approached the staircase to the landing he could see Officer Dickinson's head hanging over the stairs. He said it looked like Officer Dickinson was laying on top of an adult male struggling. He also noticed the male (Nick Heflin) under Dickinson was bleeding from his head and that Dickinson looked exhausted. Matt said he offered the use of his Taser and both officers advised they had already tried that. Matt noticed Nick's legs were flailing around so he stepped over Officer Dickinson and attempted to secure Nick's legs. He explained how Nick was able to lift him off of the ground while he put all of his body weight on his legs.

After Nick was secured in handcuffs, Matt said he helped the officers collect their items. He also recalls them locating a knife in Nick's back pocket. After they pulled the knife off of Nick, Matt said they handed it to him and he set it on the railing. He also recalled seeing another knife but couldn't remember where it came from or where it went. I asked Matt if it could have been Officer Dickinson's knife which was lost in the struggle. Matt advised that was possible but he was unsure.

Matt and the other deputies followed Officer Doherty and Officer Dickinson as they assisted Nick to the street corner where medics were waiting. After they arrived at the medic's location, Matt said Officer Dickinson started explaining what had happened. I asked Matt if Nick had made any

comments while he was on scene. Matt said he was only making a moaning and groaning noise the entire time he was on scene. Detective Clark asked Matt if he could smell any alcohol or if Nick appeared to be on any narcotics. Matt advised he couldn't smell any alcohol but believed Nick was on some type of stimulant. He went on to explain he felt this way due to the moaning and the fact Nick was able to lift him off the ground with just his lower legs.

Mason County Deputy Justin Cotte:

On 06-07-17, I was able to contact Deputy Justin Cotte at the Mason County Sheriff's Office. Justin agreed to provide me with a digitally recorded statement in regards to what had happened in the rear lot of the Homeless shelter next to the Sheriff's Office. Justin explained how he was at the Sheriff's Office with three other coworkers when they heard Officer Dickinson requesting priority assistance. He said they all left the office and ran across the street. As they approached the staircase, Justin said he was the last one to attempt to climb the stairs so he was unsure what was occurring on the landing.

I asked Justin if he heard Nick say anything while he was on scene. Justin advised he never heard Nick say anything and that he was growling and acting out of sorts. Justin believed due to his actions that Nick may have been on some type of narcotic or alcohol.

Mason General Hospital:

On 06-08-17, I contacted Mason General Hospital to retrieve copies the records from Nick's two visits. On his first visit for 05-25-17, the report shows Nick had received a left medial orbital wall fracture, comminuted

fracture of nasal bones, left ethmoid air cells and medial wall of left maxillary sinus, small locules along the inferior aspect of left orbit, comminuted fracture medial wall of left maxillary sinus, fluid level in left maxillary sinus, mildly displaced fractures of nasal bones and probable comminuted fracture of ethmoid air cells. When Nick returned on 05-26-17 they didn't find any new injuries and re-noted the above injuries.

Officer Matt Dickinson:

On 06-14-17, Detective Clark and I met with Officer Dickinson at the Shelton Police Department along with his attorney Alan Harvey. Before starting my digital recorder I advised Dickinson of his Miranda rights which he stated he understood and was willing to speak further with me. I first asked Dickinson how long he had been with the Shelton Police Department. Dickinson advised that he was the departments K-9 handler and he had been there for 9 years. I asked him what time his shift started on 05-24-17 and he explained how his shift starts at 1800 hrs but due to his dog he officially starts at 1900 hrs. I asked who was normally on duty with him which he advised was Officer Doherty.

I asked Dickinson what his department has provided as guidelines on how to deal with homeless population, he advised there hasn't been any. I asked Dickinson what Community Lifeline has requested as far as dealing with trespassers after hours. He explained "Mark" who is security for Community Lifeline has requested they move people along who are on the property after hours.

I asked Dickinson if he has found bedding on the property before which he advised he had. I asked Dickinson to explain who found Heflin. Dickinson advised he located Heflin during his routine checks of the area. As he checked the backside of the parish he noticed a foot hanging over the

edge. I asked Dickinson if he has ever dealt with Heflin in the past which he advised he has not. I requested Dickinson explain if he could see Heflin's body positioning prior to Officer Doherty making contact, which he advised he couldn't.

I asked Dickinson if he and Officer Doherty had a plan prior to contact if things became physical, Dickinson advised they did not. I also asked Dickinson if he knew in advance that Doherty was going to spray his pepper spray and he advised he didn't. He explained how Doherty provided verbal warnings and Heflin did not comply so he sprayed Heflin. I asked if he has seen Doherty spray nonresponsive subjects in the past, to which he advised he has but couldn't recall a specific incident. I asked Dickinson if he was upset with Doherty for spraying Heflin in the tight area, Dickinson advised he was not upset this occurred.

I inquired about Dickinson's body camera and if he has ever had it fall off in the line of duty. Dickinson explained this was the first time and he feels like it fell off after standing to get better leverage on Heflin's arm. During the video you can hear Dickinson talking about a knife, He clarified this was his knife and that he did recover it.

I asked Dickinson if he could hear Heflin saying "Stop, Ow, or Why" during the incident. Dickinson said he couldn't hear Heflin say anything. I asked Dickinson if he knew where he was striking Heflin on his body during the incident. Dickinson believes he was striking upper back shoulder area. I asked what type of gloves he was wearing, he explained they are a riot style glove with knuckle guard.

I asked Dickinson if he could recall a conversation between him and Doherty after booking Heflin. He said he didn't recall any conversation except that it had been the longest fight for both of them. I asked

Dickinson if he expected things to escalate so fast, he advised he didn't. I also asked if at any point he contemplated retreating which he advised he did not.

Detective Clark asked for clarity on what Mark had requested Officer Dickinson do with homeless trespassers. Dickinson said Mark had requested if they locate anyone on the property that they move them along. Detective Clark asked Dickinson if he had received confirmation from Mark or Community Life line if they would file charges for those individuals that were not willing to leave. Dickinson said he had never been told but he believed they would follow through with charges. Detective Clark asked if they had ever received a formal request which Dickinson advised he had not.

Dickinson's Attorney Alan Harvey then asked a series of questions which are attached and can be read in the transcription. During this questioning Dickinson advised they had been in a fight the Sunday prior where Officer Doherty lost his body camera in this fight. He explained they had only had the cameras for approximately one month. Alan asked his client how the lighting conditions were and Dickinson advised they had lost their flash lights and there was no ambient lighting.

Officer Justin Doherty

After speaking with Officer Dickinson, Detective Clark and I interviewed Officer Doherty with his attorney Alan Harvey present. I asked Officer Doherty if he was willing to provide a digitally recorded statement which he advised he was. After starting my digital recorder I advised Doherty of his Miranda rights which he stated he understood and was willing to speak further with me.

I asked Doherty if he has ever located bedding on the landing before. Doherty said days prior he had located the bedding on the landing but did not advise Mark with Community Lifeline. I asked Doherty who had located Nick Heflin that night. Doherty explained how he was tied up on another call when Officer Dickinson requested him to the parish for a subject on the stairwell. After completing his call, Doherty said he and Dickinson headed to the parish to contact the subject sleeping on the stairwell.

I asked Doherty if he had ever contacted or dealt with Heflin prior to the 25th, he advised "No". I inquired if Doherty or Dickinson had devised a plan if there became an issue like Heflin having a weapon or becoming combative. Doherty advised they did not have a plan and they didn't want to go up the stairwell if they didn't have to. I asked Doherty if he had pepper sprayed any individuals before who were unresponsive. He explained he has sprayed people before who have not shown their hands. I re-explained the question and described someone looking at him but not saying anything. Doherty stated, "If I believe they have a weapon or possibly concealing one then yes."

I asked Doherty if Officer Dickinson knew he was going to spray Heflin. Doherty said he verbally advised Heflin he was going to spray him, "I warned him." I explained to Doherty how I knew the cameras were new and asked if his body camera had ever fallen off before. Doherty explain this was the second time his camera had fallen off. He explained how it had fallen off during a struggle about a week or two ago while he was assisting Officer Dickinson with an arrest. He stated how the cameras have no retention and slide off the molly webbing on their vest.

I asked Doherty if he knew at what point during the struggle with Heflin that he lost his body camera. Doherty said he was unaware until the struggle was over and he had reviewed the camera footage. I asked Doherty if he

recalled hearing Heflin yelling stop, ow, or why. Doherty recalls him stating, "Did you just pepper spray me?"

I asked Doherty if he knew where he was punching or striking Heflin. Doherty said he was aiming for his upper back and upper arm but due to the struggle he could have hit other parts of his body. I asked if he recalled what style of glove he wore, Doherty then described a riot style glove equipped with a knuckle guard. He was unable to recall which brand he wore. I asked if he had used a choke hold or a baton which he advised he had not.

I asked what if any conversation had occurred between Doherty and Dickinson after the arrest. Doherty said he was unsure but believes they talked about the incident. I asked if he expected things to escalate as fast as they did and he advised, "No". I asked if he contemplated retreat at any point which he again advised no because he didn't want to go backwards down a steep stairwell with an aggressive subject. I asked Doherty if Heflin ever struck him, Doherty advised he never struck him but Heflin did grab his vest and arm at one point.

I asked Doherty if Heflin ever said anything during the incident, Doherty recalls hearing him say, "Ow." I asked if Heflin said anything while they were on the street with fire personnel. Doherty advised he just sat on the sidewalk grunting and moaning. Once at the hospital Doherty explained how Heflin made a complete 180 and was acting confused on how he had arrived at the hospital. Doherty said he explained to Heflin how he had assaulted two officers and Heflin advised him he didn't remember doing that. Doherty explained the incident was on body camera, he said Heflin then advised him he felt like he was in a fight for his life.

After completing my questions, Doherty's attorney Alan Harvey asked a series of questions. During this questioning Doherty advises Harvey that he has arrested 8 to 10 people from the Parish in the past based off of trespass contacts. Doherty said he would usually speak with Mark after most of these contacts so Community Lifeline knew what was going on. Harvey asked Doherty if he recalled handing anything to Deputy Leitgeb. Doherty advises he did and then describes how all three of them moved during the incident. Doherty provides detail describing how he could see Heflin laying on his back face up and how he would then roll over to his front side. Based on Doherty's statement it appears he was able to see most of the positioning and location of Heflin's body and face. After Mason County Deputies arrived on scene Doherty explains that Deputy Leitgeb had assisted and recovered approximately two knives. Alan Harvey then reiterated question I had asked for more clarity.

On 06-20-17 at approximately 1030 hrs I was able to speak with Barbara Weza the executive director and case manager for Community Lifeline via the phone. I advised Barbara that I would like to record our conversation which she stated she understood and was willing to allow this. Barbara explained how she was on vacation and out of the area during this incident. She said she received calls the following day explaining the incident.

Barbara advised her staff contacted her and explained how a homeless male had been beaten on the back landing. She advised how the staff had also sent her photos of the male shortly after his arrest. Barbara said she counseled the staff on how to deal with the incident. I requested Barbara send me copies of the photos which she did after completing our interview. The photo appear to be the ones which may have been taken by Jeanette Boothe from inside the jail.

I asked Barbara what Community Lifelines stance is with people sleeping on the grounds. She confirmed this isn't allowed and recognized there are currently no signs advising the public of this. I asked Barbara if they sometimes leave bedding outside for the homeless. She advised it's not common practice to leave it outside. If individuals request bedding they will provide them with it though. I asked Barbara how often they check the property to include the landing where Heflin had been located. Barbara said the security officers check the property daily.

I asked Barbara if Community Lifeline has cooperated with the charging of trespassers in the past, she advised they have but it's a rare occurrence. I asked Barbara if they have had any history with Heflin in the past. Barbara explained they knew him from visiting for meals and that he appeared to a very polite man. I asked Barbara if it was possible that Heflin may have not known about trespassing after hours. Barbara advised she was unable to answer this and added that they explain this policy to most if not all homeless individuals using the facility.

On 06-22-17 at 0600 hrs Sgt. Simper and I interviewed the Mason County Jail staff that were on duty the night of the above incident. We spoke with Deputy Lopez, Deputy Potts, Deputy Schushak, Sgt. Schoenberg, and Sgt. Reeves. I interviewed Deputy Schushak, Sgt. Schoenberg, and Sgt. Reeves separately while Sgt Simper interviewed Deputy Lopez and Deputy Potts. Nothing of evidentiary value was discovered through these interviews.

Body Camera:

On 06-27-17 at 1200 hrs Detective Ivanovich, Sgt. Simper and I tested the retention of the Safariland Viewu body cameras. We placed the camera on a load bearing vest in the same location Officer Doherty had his camera located on his vest. After multiple attempts to recreate the struggle between Heflin and the officers the camera fell off in every revolution.

Final review:

Watching the body camera footage it is clear that Doherty went up the stairs with the intent of utilizing his pepper spray. This is based on the fact that it was already in his hand at the ready and he was shaking it prior to contact. Through my investigation I have discovered pepper spraying is a commonly used tool for Officer Doherty. Doherty's administration also advised that his use of pepper spray has been an issue in the past.

As the officers reach the top of the stairs and begin their contact with Heflin, it appears Heflin is sound asleep and unaware of their presence. Heflin isn't making any threats or aggressive movement at this time. Heflin is laying in a relaxed fetal position on his right side. His left arm appears to be laying over his mid torso and his right arm is out of view under his body. He is facing away from Officer Doherty as the contact begins. Doherty appears to kick his foot while yelling commands and Heflin. Heflin still appears to be asleep at this point. As Doherty continues to yell at Heflin he's now shining his light in Heflin's eyes as they begin to open. More than likely this added to Heflin disorientation. As he begins to wake Heflin places his left hand over his face probably to block the light from his eyes.

Officer Doherty advised in his statement that he has sprayed people in the past for not showing their hands at his request. Doherty also advised he has never dealt with Heflin in the past and therefore would not have had any history of assaultive behavior to support his actions. After reviewing the Shelton Police Departments policy manual I don't believe Doherty's application was even warranted at this point.

Shelton Police Policy 308.7 OLEORESIN CAPSICUM (OC) GUIDELINES

As with other control devices, oleoresin capsicum (OC) spray and pepper projectiles may be considered for use to bring under control an individual or groups of individuals

who are engaging in, or are about to engage in violent behavior. Pepper projectiles and OC spray should not, however, be used against individuals or groups who merely fail to disperse or do not reasonably appear to present a risk to the safety of officers or the public.

After reviewing the video I cannot see Heflin make any aggressive movement that should have been perceived by an officer with 15 years of experience as assaultive. After Heflin is sprayed he begins to speak and appears to start waking up. He begins to follow the commands by placing his arms behind his back. This action places his face back into the pillow which may have had pepper spray on it along with his face. Heflin appears to panic due to the lack of air and burning sensation now occurring. As he pops up to get his face out of the pillow he is again placing his hands behind his back.

Doherty then jumps on to Heflin's back forcing his head into the doorjamb of the landing. Officer Dickinson then begins assisting Officer Doherty. Shortly after both officers are involved in the struggle they lose their body cameras. You're unable to see any of the struggle but the audio continues. I have reviewed the video multiple times and also listened to the audio separately. At no point during the struggle do I hear Heflin being aggressive toward either of the officers. I can hear Heflin screaming for help, asking why and begging them to stop over and over. The only aggression I can hear is coming from both Officer Doherty and Officer Dickinson cursing as they continue to strike Heflin. Both officers advised in their statements that they couldn't recall Heflin ever striking them. Dickinson said Heflin grabbed his wrist at one point and after instructing him to let go, Heflin did. Neither officer was assaulted by Heflin during the incident. If Heflin was aggressive or assaultive he would have struck or injured the officers during the struggle.

Both Officers advised in their statements and reports that they were unsure where they were striking Heflin due to the poor lighting. Officer Dickinson and Doherty both stated they were attempting to strike Heflin in the back and side to gain compliance, but the majority of the strikes appear to have connected with Heflin's face. Based off of the Mason General Hospital's examination they located fractures to Heflin's face on his orbital sockets and sinuses. Some of the injuries may not have been as bad as they were if both officers weren't wearing knuckle guard riot style gloves, which make it easier to punch harder and longer without the wearer being injured.

(RCW 9A.16.020) Use of force—when lawful. The use, attempt, or offer to use force upon or toward the person of another is not unlawful in the following cases: (1) whenever necessarily used by a public officer in the performance of a legal duty, or a person assisting the officer and acting under the officer's direction. WA RCW 9A.16.010 "Necessary" means that no reasonably effective alternative to the use of force appeared to exist and that the amount of force used was reasonable to effect the lawful purpose intended. It does not appear that this level of force was necessary given Heflin's lack of aggression, nor was it reasonable when you consider the circumstances surrounding the contact.

Since the use of force was not necessary or reasonable, it is therefore unlawful. WA RCW (9A.36.021.A) states that a person is guilty of Assault 2nd Degree if he or she intentionally assaults another and thereby recklessly inflicts substantial bodily harm. Matt Doherty and Justin Dickinson intentionally assaulted Nick Heflin and thereby recklessly inflicted substantial bodily harm, thus being Assault 2nd degree. At this time I request that this case be referred to the Mason County Prosecuting Attorney's Office for consideration of charges on Matt Doherty and Justin Dickinson for Assault 2nd Degree. Nothing further.